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VERBATIM RECORD OF THE 1695th MEETING

Held at Headquarters, New York,
on Monday, 1 June 1992, at 10.30 a.m.

President: Mr. FELIX-PAGANON (France)

- Examination of the annual report of the Administrative Authority for the year ended 30 September 1991: Trust Territory of the Pacific Islands (continued)

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The meeting was called to order at 11 a.m.

EXAMINATION OF THE ANNUAL REPORT OF THE ADMINISTERING AUTHORITY FOR THE YEAR ENDED 30 SEPTEMBER 1991: TRUST TERRITORY OF THE PACIFIC ISLANDS (T/1962) (continued)

The PRESIDENT (interpretation from French): I shall now call on the representatives of the Administering Authority to make their closing statements.

Mrs. TAHIR-KHELI (United States of America): Mr. President, I wish to congratulate you, the Vice-President and other members of the Trusteeship Council on the conclusion of a very productive session.

We have welcomed this opportunity to answer the questions of the members of the Council, to respond to the issues raised by the petitioner and to clarify our actions and plans with respect to Palau. In particular, we think it was important to explain in some detail the implementation of Secretary's Order No. 3142 and the Palau Master Plan. We are also thankful for the opportunity to share our views on Palau's future status and its present role on the international scene.

Because this is our first opportunity to do so, we should also like to respond at this time to comments made by the Permanent Representative of Papua New Guinea, Ambassador Lohia, at Friday's meeting of the Council. We believe his criticisms about the alternatives we have given Palau are unfounded and at variance with the statements made by the members of this Council, the Palauan members of our delegation and the report of the Visiting Mission.

The provisions of the Compact are extremely generous and parallel closely the provisions of the Compact now in effect with the Republic of the Marshall Islands and the Federated States of Micronesia. If Palau decides that free

(Mrs. Tahir-Kheli, United States)

association does not meet its needs, then the other viable alternative is independence, a status to which several areas formerly under trusteeship aspired and which many obtained. They now sit as full Members of the United Nations. Certainly the indefinite continuation of Palau's present status is not acceptable to Palau, the United States or this Council.

We must also point out that, although we fully support the suggestion that there should be coordination between the Trusteeship Council and other relevant United Nations bodies, supervision of the trusteeship is a matter for the Trusteeship Council and is outside the purview of the Committee of 24.

This session of the Council was particularly useful because so many of the Council members and staff participated in the Council's recent Visiting Mission and brought to these deliberations personal experience and impressions of Palau. That has added a sense of reality to our meetings. We were not talking in the abstract about a United Nations issue of long standing, but rather were dealing with the aspirations of people for whom we have developed some understanding and sympathy.

I believe it is safe to say that all of us here fully support Palau's desire to develop its economy and to adopt a political status satisfactory to its people, as have the other parts of the Trust Territory.

With the scheduled referenda on amending the Constitution and approving the Compact, Palau will, we hope, take the final steps towards resolving its political status before this Council's next session. If these referenda are successful, the Council's next session may well be its last, and the trusteeship system will finally become a thing of the past.

However, if these referenda are not successful, we will turn to the option of independence for Palau. As has been made plain repeatedly

(Mrs. Tahir-Kheli, United States)

throughout this session of the Council, the indefinite continuation of the status quo is not an option. An extended period of trusteeship would add to the feeling of frustration in Palau and would leave this Council with the responsibility of reviewing developments in a very unreal atmosphere.

(Mrs. Tahir-Kheli, United States)

Whether Palau adopts a permament political status in the next few months or not, we anticipate that next year's session will be a busy one. Based on the productive nature of this year's session, we are confident that the Council will be up to the challenge.

We endorse the British and French proposal to shorten the scheduled time allotted for next year's session. If necessitated by the press of business, the Council could meet in the afternoon as well as in morning sessions and avoid the expense associated with a lengthy session.

In the meantime we will continue to take seriously our obligations under the Trusteeship Agreement to promote the political, economic, social and educational advancement of the Palauan people and their development towards self-government. To that end, we deeply appreciate the comments and recommendations of the members of the Council and those contained in the report of the Visiting Mission. We look forward to reporting back next year on our efforts to implement those recommendations. We will also endeavour to keep the Council promptly informed of developments concerning Palau's political status.

THE PRESIDENT (interpretation from French): I call on Ms. Guerra of the Department of the Interior.

Ms. GUERRA (Special Adviser): As the Trusteeship Council approaches the close of its 1992 session on Palau, the last component of the Trust Territory of the Pacific Islands, I would like to underscore three areas that exemplify the direction of Administering Authority action in Palau. These three areas are, one, illegal foreign fishing; two, budget suspensions; and, three, the Palau National Master Plan.

(Ms. Guerra, Special Adviser)

Before discussing these substantive issues, however, I feel compelled to address the comments made by Ambassador Lohia last Friday in this Chamber. In general, he stated that there was little development in Palau and implied that there were virtually no roads in Babelthuap. Much of what was said is contrary to information found in the recently published 1991 report to the United Nations on the Trust Territory of the Pacific Islands and contrary to the findings of the Trusteeship Council's own 1992 Visiting Mission. Hotels are under construction or reconstruction as we speak. Visiting Mission members, including Ambassador Lohia, were guests at the superb Palau Pacific Resort. Investors and developers are poised to enter Palau as soon as rules are established that make foreign investment secure. The delineation of those important rules will come with the resolution of Palau's future political status and legislative implementation of the proposed Master Plan.

With regard to roads in Babelthuap, there are some paved roads, and additional roads are being constructed under a partnership between the state governors on Babelthuap and the United States Navy Civic Action Team. In fact, one of these pioneering roads, over which a number of members of the Visiting Mission travelled in Ngaremlengui, has since been pushed across a small river and connected with roads that lead to Koror.

Permit me to underline the overall scope of the United States effort in Palau by mentioning the fact that in 1991 the United States committed approximately $50 million to programmes for Palau and its 15,000 people. Of that amount, approximately $15 million was devoted to capital infrastructure. This is a substantial commitment by any standard.

Turning now to the three items that I noted earlier, the first item, illegal foreign fishing, has been a continuing problem for Palau over the

(Ms. Guerra, Special Adviser)

years. The United States Department of State plans to discuss the most recent incursion with the Government of the offending fishermen in an attempt to halt or curtail such violations of Palau's territorial integrity. Some Palauans have requested that the United States provide constant patrol. The fact is, however, that the United States cannot afford to devote Coast Guard vessels full time for patrol in Palau.

Besides the issue of resource protection, the Government of Palau should give significant consideration to the concepts of self-government in future exercise of sovereignty. It should be offensive to Palau, which is on the verge of nationhood, to rely solely on the outside power for protection of its territory, a responsibility that is an essential badge of nationhood. The United States believes that a tripartite arrangement among the state of Hobei, the Government of Palau and the United States Coast Guard, with the predominant effort from Palau, can provide effective surveillance. Born out of necessity, we are informed that the Palauan state of Hobei has already taken the initiative of alternating two vessels to Helen Reef. Palau reports that the former United States Coast Guard cutter Cape George, after a number of months of inactivity, is nearly ready to return to service. For effective patrol, the Government of Palau should route the Cape George through the southern islands every seven to ten days and have it on call for immediate dispatch to places like Helen Reef when a report of illegal activity is received. In the unusual instance when additional support may be necessary the United States Coast Guard cutter in Guam may be available to render assistance if it has no other equally important duty to pursue.

With Palauans leading this tripartite arrangement, not only will there be a show of capable self-government and validation of the future exercise of

(Ms. Guerra, Special Adviser)

sovereignty, but Palau's borders and natural resources will be given effective protection. We look forward to full funding of the Cape George patrol operation by the Government of Palau and the hiring of crew sufficient for sustained sea activity.

The representative of the United Kingdom put it succinctly when he said that Secretary's Order No. 3142 should be a means, not an end. We believe that with the enactment of Republic of Palau Public Law 3-70 we may have arrived at the end of the Order's use as a means of ensuring fiscal responsibility. The next six months will tell. Given the decisive recent action by the Olbiil Era Kelulau, I am optimistic that the suspension power with regard to budget issues may fall into disuse. Such an occurrence will signal another step for Palau in achieving the self-governmental and fiscal stature it needs for joining the community of nations.

I had hoped to be able to report to the Council today that all documents for initiation of the Palauan National Master Plan were signed, sealed and delivered. Such, however, is not the case. The President of Palau and his Government are pushing hard for action. The President, on his part, has already signed the bilateral Master Plan agreement with the Department of the Interior. In meetings late last week with the United States and the United Nations Development Programme (UNDP) final touches were being placed on the trilateral agreement between Palau, the Department of the Interior and UNDP. The expectation now is that the UNDP's internal approval can be secured within two and a half weeks. If so, signing will take place immediately thereafter, and the programme will commence.

During the next two years we can expect a great deal of discussion, heated arguments and fierce verbal battle as Palauans strive for consensus on

(Ms. Guerra, Special Adviser)

a number of vital developmental issues that will shape Palau for years to come. Despite the coming cacophony, please keep in mind that it is Palauans who are making decisions about their future and that this exercise is taking place at a time before outsiders have preempted such decisions. We expect the planning process to end in both legislative and bricks-and-mortar implementation of the Plan. If so, Palau, as it enters the community of nations, may be unique in its opportunity for turning bright economic potential into a lustrous reality.

THE PRESIDENT (interpretation from French): I call on Mr. Uherbelau.

Mr. UHERBELAU (Special Representative Adviser): It is my privilege once again to deliver my country's closing statement before the Council after the departure from New York of practically the entire Palauan official delegation. Only this time I do not feel quite so lonely, for sitting behind me are Ms. Joyleen Baklai Temengil, Executive Secretary of the Palau/Washington office; my wife Rachel; and our young son, Gaafar.

At the outset I commend the March 1992 United Nations Visiting Mission to Palau for having carried out an excellent and professional task. Without doubt, the full complement of the Council's membership in the Mission, coupled with the inclusion of the Ambassadors of Papua New Guinea and the Federated States of Micronesia, contributed to the incisive observations, the well-reasoned conclusions and the all-encompassing recommendations contained in the Mission's report. But, more significantly, the Mission's accomplishments are directly attributable to the leadership of the outgoing Council President, Thomas Richardson, and yourself, Sir, as the second in command.

Many matters of major importance contained in the Mission's findings, among others, were enunciated in this Chamber last week by Council members, including the representatives of the Administering Authority, about which we wanted to comment, but they are too numerous to cover in this brief closing statement and to do so would take up too much of the Council's valuable time. I hope, therefore, that no one will be greatly disappointed if the remainder of these remarks appear to be selective.

I wish to extend, first of all, my Government's gratitude and deep appreciation to Papua New Guinea's Ambassador for his off-the-cuff

(Mr. Uherbelau, Special Representative Adviser)

characterization last Friday of the state of affairs in Palau. After hearing his statement, members of the Palau delegation all agreed that Ambassador Lohia had said things we always wanted to say ourselves, but had done it better. His eloquence was of the highest quality and added meaning for us because he spoke not from a piece of paper but from the heart. We look forward to sharing his constructive remarks with other Palau Government officials when the Council's record of the proceedings becomes available.

Secondly, the representative of the Russian Federation expressed our sentiments as well when he observed that requisite funding for capital improvement projects (CIP), much needed for Palau's economic growth and self-sufficiency, should have been made available to allow for timely emplacement of infrastructures as a matter of trusteeship obligations of the Administering Authority.

The CIP funds, especially for the Babelthuap circumferential road system, should not have been made part of the negotiated financial package under the Compact because they have become hostage to Compact implementation. Fulfilment of this particular trusteeship responsibility has been said to have been put off for the past 12 years pending eventual termination of the trusteeship status.

Thirdly, we take note of the concern voiced by the representative of the United Kingdom over the repeated poaching by foreign fleets in the Republic's exclusive economic zone and the current lack of maritime law enforcement to combat the problem.

The Council will be interested to know that since 1985 Palau has participated fully in the activities, programmes and projects of the South Pacific Forum Fisheries Agency (FFA) by virtue of its full-fledged membership

(Mr. Uherbelau, Special Representative Adviser)

in this Pacific regional body. As coastal States the 16 member countries of the FFA enjoy sovereign rights over the living and non-living resources within their respective 200-mile exclusive economic zones, as prescribed by the United Nations Convention on the Law of the Sea.

I had the privilege late last month and early this month to represent Palau in three rounds of fisheries consultations under the auspices of the FFA, conducted in the capitals of three of its member States - the Republic of Kiribati, Niue and New Zealand.

A Western Pacific Purse Seine Management Arrangement was concluded in Tarawa, after three years of careful negotiations, and the treaty now awaits final clearance by member Governments before it is open for signature.

Because of the potential over-exploitation of tuna resources by this particular fishing technology, Pacific coastal States have banded together to set number limits on purse seine fleets of Japan, South Korea, the United States, Taiwan, Indonesia and the Philippines that may be licensed to fish in the Western Pacific region. When implemented, the Arrangement will serve as a management tool for safeguarding stocks of highly migratory species of fish from depletion by foreign fishing nations active in our region in the Pacific.

A Joint Maritime Surveillance and Enforcement Cooperative Convention was also concluded at Alofi and officially named the Niue Convention. When it enters into force - which, we hope, will be early in 1993 - this draft agreement will enable all FFA member States to cooperate in and coordinate the fisheries surveillance and law enforcement activities in warding off continued illegal fishing by distant-water fishing nations. This arrangement is to be

(Mr. Uherbelau, Special Representative Adviser)

complemented with the Maritime Surveillance Communications Network (MSCN) operating out of Honiara, Solomon Islands, to monitor illegal fishing operations by means of a telecommunications system.

(Mr. Uherbelau, Special Representative Adviser)

With the exception of Fiji and Palau, aerial reconnaissance over the fishery zones of other member countries of the Forum Fisheries Agency (FFA) is currently provided by the Royal Australian and New Zealand Air Forces. The Australian Government, through its bilateral aid scheme, has provided certain small island States of the FFA with techically equipped patrol boats for policing their zones.

I am happy to report that yet another agreement in principle was reached in Auckland between the 16 member countries of FFA, Palau included, and the United States Government and tuna industry, which calls for a 10-year extension of the current United States Multilateral Fisheries Treaty, due to elapse in June 1993, for a cap of 55 on the number of purse seine vessels that may be licensed to fish in the Pacific region, and for a financial package of $18 million in yearly payments for the privilege of fishing in the member countries' zones.

Moving on to another subject, we all have much to lose by further loose talk about the infamous Secretary's Order No. 3142 and its section 11, setting requirements regarding communications by Palau with the outside world. Suffice it to say that, like the 1947 Trusteeship Agreement it is alleged to implement, this Order will be of no force or effect, legal or otherwise, upon the imminent change of Palau's political status.

As the Council is aware, the Republic's good-faith attempts at reaching negotiated Compact modifications have fallen upon the deaf ears of its Administering Authority. Our disappointment, indeed our frustration, in this

(Mr. Uherbelau, Special Representative Adviser)

regard is made all the more painful because Palau made its proposals at the urging of the United States in the first instance. But what transpired is a matter of history now, recorded in the annals of this Council: water under the bridge, so to speak. We should all look forward, rather than looking over our shoulders to ascertain who was right and who was wrong.

As stated by Minister Olikong at the opening of the Council's session last week, Palau is bracing itself for the 13 July constitutional-amendment referendum called for by a popular initiative. While the outcome of the vote cannot now be predicted, it is nevertheless safe to say that a favourable result depends largely upon whether we in the Government do our job - and do it right - in explaining and clarifying what is at stake.

The March Visiting Mission was informed by a joint Palauan leadership statement that the reconciliatory amendment procedure was written into the Palau Constitution for the very purpose of reconciling conflicts between the two documents. Lowering from the existing 75 per cent the vote needed for approval of the Compact of Free Association, owing to the Compact's allowing entry into Palau of radioactive or nuclear materials, would not in and of itself make Palau's Constitution inferior in any fashion to the Compact. What it would do is permit the two documents to coexist in the face of their judicially acknowledged inconsistencies. Additionally, lifting the 75-per-cent requirement would be a temporary suspension of the ban to last only during the term of the free-association relationship. In all other respects, provisions of the Constitution would prevail over those of the Compact in the event of any other conflicts, perceived or real.

However, a number of petitioners, including ill-advised and ill-informed Palauans themselves, have warned this Council that amending Palau's

(Mr. Uherbelau, Special Representative Adviser)

Constitution in accordance with the process set forth under article XV, section 11, would establish a serious precedent in our constitutional development. But none of the petitioners, or any of the advisers who wrote their speeches, has first-hand knowledge about the Palau Constitution. I can say this with the highest degree of certainty, because I myself was one of the 34 delegates to the Constitutional Convention and had a share in writing the Constitution of the Republic of Palau.

As when it was first attempted in 1978, this year's constitutional-amendment referendum will be strictly an internal matter for Palau and its voters, to be conducted, we hope, free from any external interference. I would, however, reiterate Minister Olikong's invitation to the Council, through the Administering Authority, to dispatch yet another mission to observe the eighth, and last, Compact plebiscite following the successful ratification of the amendment.

I bring to a close these few remarks not by bidding the Council farewell - for I believe that when we meet again, either in this Chamber or elsewhere, it will be to celebrate the emergence of Palau as an island republic, I hope in free association with the United States, and simultaneously to terminate the last vestiges of the United Nations Trusteeship System.

May God bless us all.

The PRESIDENT (interpretation from French): It is now my pleasant duty to thank the representatives of the Administering Authority for their active contribution to the Council's consideration of the report and most particularly to thank Mr. Uherbelau and all the others who came from so far away, from the Trust Territory under consideration, including the Minister of State, Mr. Santos Olikong, and the Minister of Administration, Ms. Sandra Pierantozzi. Their contribution has been extremely helpful to the Council in its deliberations; they have provided information of the greatest importance. On behalf of the Council I thank them again and wish them a pleasant journey home to Palau.

Does any member wish to make comments at this stage of our deliberations?

Mr. ZHANG Yan (China) (interpretation from Chinese): This morning we heard statements by the representatives of the Administering Authority and the representative of Palau. As the President has just pointed out, those statements have helped us further to understand all aspects concerning the situation in Palau. This is especially so after listening to the representative of Palau, who spoke about the problems facing the social and economic development in Palau. As I mentioned in my previous statement, if these questions are not resolved they will affect, to a certain extent, the process of self-government in Palau. Therefore, it is our hope that these questions will be resolved through the joint efforts of the Palauan authorities themselves, along with the efforts of the Administering Authority, and that they will be smoothly resolved so that the people of Palau will soon see the end of the trusteeship status.

After listening to these statements, I wish to refer to just one point for the record. In his statement the representative of Palau spoke of the problem of fishing, especially as it concerns illegal fishing, and mentioned the problem concerning the nations that are involved. The Chinese delegation understands the term "nations that are involved" to mean "countries and regions that are involved". I have spoken with the representative of Palau about this matter and I therefore believe there is no misunderstanding on this question between us. However, I still wished to make this clarification on this occasion.

The PRESIDENT (interpretation from French): I call on the representative of Papua New Guinea.

Mr. LOHIA (Papua New Guinea): I want to thank and congratulate the representatives of both the Administering Authority and Palau for providing valuable and important information to the Trusteeship Council. That

(Mr. Lohia, Papua New Guinea)

information has facilitated the Council's deliberations and contributed to our understanding of the developments and progress in Palau.

Reference has been made a number of times to the importance and the need for closer cooperation between the countries of the region and Palau. I want to note here in the Council's deliberations that Palau is a member of the Forum Fisheries Agency. Consequently, Palau has taken its own seat as an independent member, together with the member countries of the South Pacific Forum and others, in the negotiation of a multilateral fisheries agreement with the United States Government.

I also want to thank the United States Government for coming to an agreement for the second time on the treaty to continue this multilateral fisheries agreement. I believe $180 million has been agreed to among the parties. The Governments of the South Pacific Forum and others, including Palau, will benefit from this over a 10-year period. The point here is that the Government of Palau has been treated by the countries in the region and by the Administering Authority as an independent Government in these negotiations and also in other regional fields, such as the South Pacific Environment Programme. These are very valuable experiences, and I would like to request that these opportunities and encouragements be offered to the authorities of Palau so that they can prepare themselves for the time when they will truly become independent, or choose whatever political status they desire. We hope that, as a member of the South Pacific Forum and, as has been indicated by everyone, they become Members of the international community in the United Nations. As we have done in the past for the Marshall Islands and the Federated States of Micronesia, the Government of Papua New Guinea will

(Mr. Lohia, Papua New Guinea)

encourage Palau, at the appropriate time, by facilitating their entry into the South Pacific Forum and also to the United Nations.

ORGANIZATION OF WORK

The PRESIDENT (interpretation from French): At the Council's meeting tomorrow, we shall take up agenda items 2, 11 to 13, and suspend the session.

The meeting rose at 11.50 a.m.